

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION FIVE

The George Washington University<sup>1</sup>  
Employer

and

Local 621, UCTIE, United Construction  
Trades Industrial Employees Union<sup>2</sup>  
Petitioner

Case 5-RC-15624

and

Service Employees International Union,  
Local 82, AFL-CIO, CLC<sup>3</sup>  
Intervenor

**DECISION AND DIRECTION OF ELECTION**

The sole issue raised at the hearing involves the labor organization status of the Petitioner, Local 621, UCTIE, United Construction Trades Industrial Employees Union. The Intervenor would not stipulate that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act, while the Employer declined to take a position. The parties stipulated the Intervenor is a labor organization within the meaning of the Act.

The Employer is an institution of higher learning in Washington, D.C. The parties stipulated the following unit of approximately 205 employees is an appropriate unit for bargaining:

All regular full-time employees and regular part-time employees of the Employer in the Housekeeping and Grounds Division, of the Facilities Management Department of the Employer in the job titles of crew leader-grounds, crew leader-environmental services, groundsperson, landscape gardener/equipment operator, equipment vehicle mechanic, small engine maintenance mechanic, service worker, linen service worker, service worker trainee, senior service worker, but excluding all executive, professional, technical, clerical, and temporary employees, employees not regularly scheduled for a standard work week of 20 or more hours, and all

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<sup>1</sup> The name of the Employer appears as amended at the hearing.

<sup>2</sup> The name of the Petitioner appears as amended at the hearing.

<sup>3</sup> The name of the Intervenor appears as amended at the hearing.

other employees in job classifications not specifically named in the inclusions, supervisory employees (including foremen), and guards as defined in the Act.<sup>4</sup>

The unit has been represented for at least the past 25 years by the Intervenor. The current collective-bargaining agreement between the Intervenor and the Employer is effective by its terms from January 18, 2001 through December 17, 2003.

Section 2(5) of the Act defines a labor organization as follows:

Any organization of any kind, or any agency or employee representation committee or plan, in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employer concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

In support of its status as a labor organization, the Petitioner presented as its witness Raphael Griffin, organizer for the Petitioner. Griffin testified that the organization exists, at least in part, for the purpose of dealing with employers concerning conditions of work and has negotiated at least one collective-bargaining agreement which provides for a grievance procedure, rates of pay, hours of employment and other terms and conditions of employment. Griffin further testified the Petitioner has processed grievances for employees, and employees participate in the organization by electing the union officers and attending meetings. Griffin was the sole witness at the hearing, and his testimony stands without contradiction.

The record clearly shows, and I find, that the Petitioner admits employees to membership and represents employees, in collective bargaining with employers, concerning wages, hours, and working conditions. I find that the Petitioner exists for the purpose, in whole or in part, of dealing with employers concerning wages, hours, and other terms and conditions of employment, and the Petitioner is a Section 2(5) labor organization. Alto Plastics Mfg. Corp., 136 NLRB 850, 851-852 (1962); Butler Mfg. Co., 167 NLRB 308 (1967); Michigan Bell Telephone Co., 182 NLRB 632 (1970).

## CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accord with the discussion above, I find and conclude as follows:

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<sup>4</sup> The parties further stipulated that the unit positions are governed by the following definitions: Regular full-time employees means employees in a bargaining unit who hold regular full-time positions and who are regularly scheduled to work 40 hours per week. Regular part-time employees means employees in a bargaining unit who hold regular part-time positions and who are regularly scheduled to work 20 or more hours per week. Temporary employees means employees who are identified as temporary employees on Employer records and who are hired for a period of no longer than six months or who are hired to replace one or more employees who are absent on leave from work even if longer than six months. Employees used means both regular full-time employees and regular part-time employees as defined above unless a provision applies to only one of these categories of employees in which case the term shall include only the category of employee to which the provision applies.

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is an employer as defined in Section 2(2) of the Act and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The Petitioner, Local 621, UCTIE, United Construction Trades Industrial Employees Union, and the Intervenor, Service Employees International Union, Local 82, AFL-CIO, CLC, labor organizations as defined in Section 2(5) of the Act, claim to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

5. The parties stipulated that the Employer, during the fiscal year July 1, 2002 to June 30, 2003, in conducting its operations as an institution of higher learning, derived gross revenues in excess of one million dollars. During the same period of time, the Employer in conducting its operations purchases and received at its Washington, D.C. facility products, goods, and materials valued in excess of \$5,000 directly from points outside the District of Columbia.

6. I find the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All regular full-time employees and regular part-time employees of the Employer in the Housekeeping and Grounds Division, of the Facilities Management Department of the Employer in the job titles of crew leader-grounds, crew leader-environmental services, groundsperson, landscape gardener/equipment operator, equipment vehicle mechanic, small engine maintenance mechanic, service worker, linen service worker, service worker trainee, senior service worker, but excluding all executive, professional, technical, clerical, and temporary employees, employees not regularly scheduled for a standard work week of 20 or more hours, and all other employees in job classifications not specifically named in the inclusions, supervisory employees (including foremen), and guards as defined in the Act.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by Local 621, UCTIE, United Construction Trades Industrial Employees Union or Service Employees International Union,

Local 82, AFL-CIO, CLC, or Neither. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

#### A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

#### B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, National Labor Relations Board, Region 5, 103 South Gay Street, Baltimore, MD 21202, on or before **October 23, 2003**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (410) 962-2198. Since the list will be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

### C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

### RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **OCTOBER 30, 2003**. The request may not be filed by facsimile.

(SEAL)

/S/WAYNE R. GOLD

Dated: OCTOBER 16, 2003

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Wayne R. Gold, Regional Director  
National Labor Relations Board  
Region 5

177-3901-2500